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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVN. APPLICATION NO. 483 OF 2006

Shri Prakash Hiralal Rao ... Applicant

V/s

Smt. Radhika Prakash Rao & ors. ... Respondent

None for the applicant.

Mr. A.R. Patil, A.P.P. for the respondents.

CORAM: S. B. MHASE &
SMT. NISHITA MHATRE, JJ.

DATED: 6TH FEBRUARY, 2007.

P.C.:

1. Heard.

2. This matter was yesterday on board. None appeared for the revision petitioner. Therefore we adjourned it for today.

2. Today when the matter was called out at 11.00 a.m. no one appeared for the revision petitioner. The revision petitioner is also absent. We have gone through the judgment and order passed in the proceeding being Petition No.E-396 of 2005 directing the revision

petitioner to pay Rs.1000/- per month to the petitioner towards maintenance of the wife and Rs.1000/- per month for the maintenance of each of the child. Thus an aggregate amount of Rs.3000/- per month is to be paid from the date of service of notice of the petition i.e. from 25.8.2005. It is a fact that the wife is not residing with the revision petitioner. However, the revision petitioner was under obligation to make an arrangement for the residence of the wife during the period when she was not residing with the revision petitioner. Whatever may be the reasons for separation between the husband and wife, so far as the children are concerned, the revision petitioner should have made appropriate arrangement for the maintenance of the children. While going through the judgment, it is crystal clear that no such arrangement was made by the petitioner and thus the revision petitioner has neglected to maintain the wife and children. So far as the quantum is concerned, on going through para 25 of the Family Court judgment it is revealed that, according to the respondent wife, the revision petitioner is working in Naval Department of Indian Navy and he is drawing a salary of Rs.8,000/- per month and there are no dependents on him except the respondent wife and children. The respondent has admitted that he is drawing salary Rs.4000/- per month and has borrowed huge

loans which exhaust his salary. However he has not produced the salary slip to demonstrate his total salary and the deductions. In fact, he is the best person to disclose his income and rule of best possible evidence requires that he should have produced the salary slip since he is working in the Naval Department. Under these circumstances, the trial Court is justified in accepting the income of the revision petitioner as Rs.10,000/- and directing him to pay Rs.3,000/- towards the maintenance of wife and children.

3. The purpose of filing this revision petition appears to be quite appropriate but since the matter is listed, the learned counsel for the revision petitioner remaining absent inspite of the fact that the matter was twice notified by this Court.

4. We do not find any reason to interfere in the revision petition. Petition is dismissed.

(SMT. NISHITA MHATRE, J.) (S.B. MHASE, J.)